

Notice of Allowability

Application No.

10/538,778

Applicant(s)

BELINKY ET AL.

Examiner

Art Unit

KAILASH C. SRIVASTAVA

1657

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment and Response of 11/13/2007.
2. ☒ The allowed claim(s) is/are 1 and 3-11.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
- (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date 20080213.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>02/05/2008</u> . |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date <u>12/15/2005</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other ____. |

Examiner's Amendment and Comments

1. The response and Preliminary Amendment filed 13 November 2007 to Election requirement in Office Actions mailed 13 September 2007 is acknowledged and entered.

Claims Status

2. Claims 2, 13, 25, 36 and 49 have currently been cancelled.
3. Claims 1, 3-6, 12, 14, 19, 21-23, 26, 29, 35, 37, 42, 46, 48, 50 and 53 have been amended.
4. Claims 1, 3-12, 14-24, 26-35, 37-48 and 50-68 are pending.

Restriction/Election

5. Election of Group I invention encompassing Claims 1, 3-12 and 14-22, consisting of:
 - (a) Claims 1, 3-11 drawn to a method to lightening a skin region or hair of a subject by applying at least one type of lignin peroxidase enzyme to said skin region or hair of said subject;
 - (b) of Claims 12, 14-22 drawn to a cosmetic composition comprising at least one type of lignin peroxidase, , an electron acceptor, a cosmetically acceptable carrier and veratryl alcohol ; andadditional election of following species:
 - (i) isozyme H1 from Claim 3 and 14; and
 - (ii) Cosmetic Carrier as transcitol from Claim 17,

in response filed 13 November 2007 is acknowledged and entered.

Because applicant did not distinctly and specifically traverse the election requirement cited *supra*, the election has been treated as an election without traverse (See M.P.E.P. §818.03(a)). Accordingly, the restriction requirement is deemed proper and is made FINAL.

6. Accordingly, Claims 12, 14-24, 26-35, 37-48 and 50-68 and additional species recited in Claims 3, 14 and 17-18 are withdrawn from further consideration as being directed to a non-elected invention. See 37 C.F.R. §1.142(b) and M.P.E.P. § 821.03.

Rejoinder

7. Pursuant to literature search for prior art, the election of species restriction to elect a species lignin peroxidase isozymes in Claims 3 and 14 and of a cosmetically acceptable carrier in claim 17 previously withdrawn from consideration as a result of a species election requirement in the Office Action mailed 13 September 2007 is now rejoined with Group I. The remaining Groups (i.e., Groups II-V) have not been rejoined because of the rejoinder *supra* and still remain finally withdrawn as a non-elected invention.

8. Claims 1, 3-12 and 14-22 drawn to a method, and to a composition for lightening a skin region or hair of a subject by applying at least one type of lignin peroxidase enzyme to said skin region or hair of said subject are examined on merits.

Priority

9. Priority claim under 35 U.S. C. §119 (a-d) to PCT/IL03/01055 filed 11 December 2003 respectively is acknowledged.

10. Priority claim under 35 U.S. C. §119 (e) to U. S. Non-provisional Application, Serial number 60/432,678 filed 12 December 2002 is acknowledged.

Objection to Specification

11. The disclosure is objected to because the descriptions for Figures 2-10, 12 and 14 do not describe the type of Figures as are described e.g., for Figures 13 and 15. Figures will be much clearly understood if described for e.g., "Figure 10 is a color photograph that illustrates..", or "Figure 3 is a Line Drawing".

Objection to Drawings

12. The drawings are objected to because captions in some of the Drawings are on the same Line as the label for the X-axis of that drawing and therefore it is difficult to comprehend whether e.g., Figure 4 caption is hydrogen peroxide concentration, or hydrogen peroxide concentrating is the label for the X axis of figure 4. Please label the Figure number below the label for X axis for that figure as e.g., in Fig 6.

Please correct captions for each of the Line drawing Figures (e.g.-4 and 14). Corrected drawing sheets in compliance with 37 C.F.R. §1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 C.F.R. §1.121(b) are required in reply to the instant Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 C.F.R. §1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in next Office Action.

13. Color photographs and color drawings are not accepted unless a petition filed under 37 C.F.R. §1.84(a) (2) is granted. Any such petition must be accompanied by the appropriate fee set forth in 37 C.F.R. §1.17(h), three sets of color drawings or color photographs, as appropriate, and, unless already present, an amendment to include the following language as the first paragraph of the brief description of the drawings section of the specification:

The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.

Color photographs will be accepted if the conditions for accepting color drawings and black and white photographs have been satisfied. See 37 C.F.R. §1.84(b) (2).

Information On How To Effect Drawing Changes

Replacement Drawing Sheets

Drawing changes must be made by presenting replacement sheets which incorporate the desired changes and which comply with 37 C.F.R. §1.84. An explanation of the changes made must be presented either in the drawing amendments section, or remarks, section of the amendment paper. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 C.F.R. §1.121(d). A replacement sheet must include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of the amended drawing(s) must not be labeled as “amended.” If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor’s name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and within the top margin.

Annotated Drawing Sheets

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheet(s) must be clearly labeled as "Annotated Sheet" and must be presented in the amendment or remarks section that explains the change(s) to the drawings.

Timing of Corrections

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 C.F.R. §1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (i.e., PTOL-37), the new drawings MUST be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 C.F.R. §1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

Examiner's Amendment

14. An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicants, an amendment may be filed as provided by 37 C.F.R. §1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this Examiner's amendment was given in a telephone interview on 05 February 2008 with Mr. Martin D. Moynihan, Applicants' Representative.

In the Claims:

The following listing of claims will replace all prior versions, and listings, of claims in the instant application:

Listing of Claims:

1. (Previously Presented) A method of lightening a skin region or hair of a subject, the method comprising applying to the skin region or hair at least one type of a lignin peroxidase enzyme in a manner suitable for oxidizing a pigment contained within cells of the skin region or hair.
2. (Cancelled)

3. (Currently amended) The method of claim 1, wherein said lignin peroxidase is isoenzyme H1 ~~or a modified form of isoenzyme H2~~.

4. (Previously Presented) The method of claim 1, wherein said applying is effected via a topical application of a preparation including said at least one type of lignin peroxidase enzyme.

5. (Previously Presented) The method of claim 1, wherein said applying is effected via intradermal or subcutaneous administration of a preparation including said at least one type of lignin peroxidase enzyme.

6. (Previously Presented) The method of claim 1, wherein said at least one type of said lignin peroxidase enzyme is included in a composition formulated for skin or hair application.

7. (Original) The method of claim 6, wherein said composition further comprises an electron acceptor.

8. (Original) The method of claim 6, wherein said composition further comprises veratryl alcohol.

9. (Original) The method of claim 6, wherein said composition comprises at least one type of an epidermal penetrant.

10. (Original) The method of claim 6, wherein said composition comprises at least one type of a hair penetrant.

11. (Original) The method of claim 1, wherein said applying is effected for a time period selected according to a level of lightening desired.

Claims 12-68 (Canceled).

15. Any comments considered necessary by applicants must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Examiner's Amendment and Comments."

16. Claims 1 and 3-11 are allowed.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kailash C. Srivastava whose telephone number is (571) 272-0923. The examiner can normally be reached on Monday to Thursday from 7:30 A.M. to 6:00 P.M. (Eastern Standard or Daylight Savings Time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Jon Weber can be reached at (571)-272-0925 Monday through Thursday 7:30 A.M. to 6:00 P.M. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (i.e., PAIR) system. Status information for the published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (i.e., EBC) at: (866)-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. C. S./
Examiner, Art Unit 1657

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13 February 2008

/Jon P Weber/

Supervisory Patent Examiner, Art Unit 1657